

Derek Snelling, OSB # 994176

Shlesinger and deVilleneuve Attorneys, PC

P.O. Box 11616

Eugene, OR 97440

Voice: (541) 485-8411

Fax: (541) 485-4299

Email: dsnelling@dsdattorneys.com

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

**AMY VETTER, as personal
representative for the Estate of
CHARLES ERNEST VETTER, deceased,**

Plaintiff,

vs.

**UNITED STATES VETERANS HEALTH
ADMINISTRATION,**

Defendant.

CASE No. _____

COMPLAINT FOR PERSONAL
INJURY and WRONGFUL DEATH ACTION

DEMAND FOR JURY TRIAL

Plaintiff alleges for her Claim for Relief:

1.

Plaintiff is the court appointed personal representative for the Estate of Charles Ernest Vetter, deceased, and was his wife at the time of his death.

2.

At all times material, Charles Ernest Vetter was a United States Navy Veteran having served his country during the Vietnam War.

3.

At all times material, Portland VA and Roseburg VA were and are medical centers in the State of Oregon providing comprehensive medical care to United States Military Veterans and are operated under the exclusive authority and control of the United States Veterans Health Administration (VHA). All acts and omissions of defendant VHA set forth below were made through agents, apparent agents, or employees, who were at all times material working within the course and scope of such agency or employment at the Portland VA and Roseburg VA.

4.

At all times material, Deborah Madden MD was an Idaho and Texas licensed medical doctor practicing primary care medicine in the State of Oregon.

5.

At all times material, John McCaffrey MD was a licensed and board certified medical doctor practicing radiology medicine in the State of Oregon.

6.

At all times material, Nancy MacDonald MD was a California and Utah licensed and board certified medical doctor practicing radiology medicine in the State of Oregon.

7.

At all times material, Amir Farzin Azerbal MD was a licensed and board certified medical doctor practicing vascular surgery medicine in the State of Oregon.

8.

At all times material, Gregg Darius Azin MD was a licensed and board certified medical doctor practicing vascular surgery medicine in the State of Oregon.

9.

On or about November 29, 2012 Charles Ernest Vetter received a CT scan at the request of his primary doctor, Deborah Madden MD, to assess his abdominal aortic aneurysm (AAA). However, John McCaffrey MD also found a 3.3 centimeter highly suspicious mass in his left lung and no evidence for local or distant metastases. Dr. McCaffrey states in his report: "POSSIBLE MALIGNANCY, FOLLOW-UP NEEDED." Both his primary care provider and the Portland VA surgical staff were aware of the left lung mass found by the CT. Mr. Vetter received AAA surgery at the Portland VA on December 31, 2012 with Amir Farzin Azerbal, MD as his attending physician. Nancy MacDonald, MD, also noted the left lung mass on Mr. Vetter's post-operative chest X-Ray. Mr. Vetter remained in the ICU until January 5, 2013 when he was transferred to the acute care ward. Mr. Vetter was discharged from the Portland VA on January 7, 2013 with no mention of the left lung mass in his discharge instructions. On January 29, 2013, Mr. Vetter returned to the Portland VA for a post-surgery check-up and was seen by Dr. G. Darius Azin MD. Dr. Azin stated in his note, "He can f/u as needed, no long term imaging needed."

10.

Defendant performed no follow-up for the left lung mass whatsoever, until December 16, 2013, when Mr. Vetter presented to the Roseburg VA with a fever and coughing up blood. Subsequent testing revealed that Mr. Vetter's left lung mass had grown to 6 centimeters and progressed significantly to advanced stage IV lung cancer. On January 3, 2014, Suil Kim, MD, PhD advised Mr. Vetter that proper follow-up care for his lung cancer did not occur as it should have following the AAA surgery. Doctors felt his case was now terminal and estimated he would only have another year to live. Mr. Vetter died March 10, 2015 due to lung cancer.

11.

In caring for plaintiff from November 29, 2012 until December 13, 2013, defendant, by and through its agents or apparent agents, were negligent in breaching the duty of care owed to decedent in one or more of the following ways:

- a. Failing, at any time between November 29, 2012 and December 13, 2013, to perform the minimally acceptable follow-up care for probable lung cancer;
- b. Failing to advise Mr. Vetter or his wife that a probable cancerous mass was found on his left lung in the November 29, 2012 CT scan.
- c. Failing to diagnose Mr. Vetter's lung cancer; and
- d. Failing to treat his lung cancer while it was early stage and curable.

12.

Defendants' negligence, in one or more of the foregoing particulars, created a foreseeable risk of harm to decedent and was a substantial factor in causing him to suffer fatal lung cancer. Due to this injury, decedent experienced pain and suffering before his death. In addition, his wife has and will continue to experience loss of society, companionship, and services of the decedent all to the noneconomic damage of the estate in an amount to be shown at the time of trial, not to exceed \$1,500,000.00.

13.

By reason of the described injuries, plaintiff has incurred funeral and burial expenses of \$5,000 and pecuniary losses in the amount of \$445,000; all to the economic damages of the estate in an amount to be shown at trial, not to exceed \$500,000.

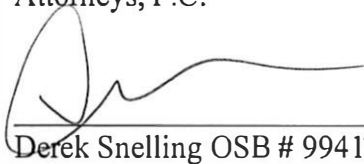
14.

The office of regional counsel has denied this claim by letter dated May 28, 2015.

WHEREFORE plaintiff prays for judgment against defendants in the sum of \$1,500,000 for non-economic damages, \$500,000 for economic damages, and for the costs and disbursements incurred herein.

DATED: June 3rd, 2015.

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Attorneys, P.C.



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